

# TOWN OF MERRIMAC

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## Housing Plan



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Community Opportunities Group, Inc.

Boston, Massachusetts

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## APPENDIX

A: SAMPLE AFFORDABLE HOUSING RESTRICTION

## I. COMMUNITY STATEMENT OF SUPPORT FOR AFFORDABLE HOUSING

Merrimac wants to maintain a housing stock that can accommodate every age group, family size and income level. We are proud of our existing mix of housing and the choices available to people who want to live in our town. The Board of Selectmen and Planning Board continue to endorse the goals for future housing in the Merrimac Master Plan (June 2002):

- Provide housing choice throughout the community
- Protect and enhance the historic, intimate character of existing neighborhoods
- Use regulations effectively to promote neighborhood-scale design in new residential developments

We will work to implement the major housing and land use recommendations in the Master Plan to encourage development or reuse of housing units that are affordable:

- Encourage a mix of residential use types throughout Merrimac, but focus higher-density housing in existing developed areas with adequate infrastructure along Route 110, when carried out in support of mixed-use development, around Merrimac Square, and as replacement uses if the town's mobile home parks cease to operate.
- Encourage housing for restricted occupancy by elderly residents - assisted living facilities and "over-55" housing developments
- Tailor local policies to encourage work-at-home activity.
- Establish a Village Residential District to encourage a greater mix of housing stock, re-use of existing structures and more affordable housing near Merrimac Square, including accessory apartments and multi-family conversions that meet the requirements of the Local Initiative Program (LIP).
- Establish a Housing Partnership Committee and a local housing trust, non-profit development corporation or community development corporation to develop and manage affordable elderly housing, and to carry out other community development projects.
- Seek, obtain and use public and private resources to provide housing units that are affordable to and suitable to low- and moderate-income and middle-income families and the disabled and elderly: CDBG, HOME.
- Identify town-owned land, including tax-title parcels that can support small-scale affordable housing development by such organizations as Habitat for Humanity

## II. INTRODUCTION

Merrimac is a small town in northern Essex County, bounded by Amesbury, West Newbury, Haverhill, and Newton, N.H. From its distinctive Town Square to the unspoiled hills and farms near the state line, Merrimac has much to offer: an unusual mix of homes, breathtaking views of the Merrimack River, villages and lakeside neighborhoods, and a pastoral countryside. Like most rural-economic centers, Merrimac is geographically small – about 8.6 square miles – and it is organized around a compact industrial village with adjacent, densely settled neighborhoods. Agricultural land and forests characterize the town’s outlying areas, yet largely because of regional market forces, both the supply of open space and the agricultural economy it supported have declined considerably over the past 30 years. In 1971, 68% of Merrimac’s total land area was forested or used for farming. By 1999, forests and agricultural land had dropped to 55% of the town.

Evidence of modern ideas about development can be found just about everywhere in Merrimac today: larger house lots with homes set back uniformly from the street, and new subdivision roads lined with granite curbing, wider than some of the old country ways that collect and move the majority of traffic in Merrimac. The force that accelerated Merrimac’s growth, I-495, serves as imposing testimony to the irrevocable land use changes that many small towns faced during the last half of the 20th century. For Merrimac, regional highway improvements meant more than its discovery by a new generation of homebuyers. I-495 also severed the entire southern end of Merrimac from the rest of town, leaving intact only a few of the old roads that once led from New Hampshire south to the Merrimack River.

Out of concern about the impacts of residential development, a weak tax base and the incremental loss of open space along Merrimac’s rural roads, the Town decided to prepare a new master plan at the end of the 1990s. For nearly two years, a committee of local officials and interested citizens worked with a consulting team and steered the plan’s development. In August 2001, the Merrimac Master Plan was adopted by the Planning Board. The Master Plan promotes guiding future growth toward established neighborhoods around Merrimac Square and along Route 110 – areas with adequate infrastructure and utilities to support more development – while reducing pressure on the agricultural and forested landscapes of northern Merrimac. Specifically, the Master Plan advocates for the following land use policies:

1. A variety of regulatory options to encourage multi-family housing, elderly housing and a mix of residential and office uses adjacent to Merrimac Square;
2. Upper-story residential uses in Merrimac Square’s commercial buildings;
3. Infill residential development in Merrimac Square neighborhoods;
4. Mixed use, predominantly commercial development along Route 110, subject to strong site plan and design review guidelines;
5. More flexible regulations for the use of vacant land in Merrimac’s industrial district;

6. No extensions of sewer service into outlying parts of Town in order to preserve remaining treatment plant capacity for future growth along Route 110;
7. Open space zoning and flexible development regulations for rural areas; and
8. Stronger protection for wetland resources, scenic roads and historic buildings.

Against the backdrop of these and other Master Plan recommendations, the Planning Board established a special committee to work on zoning bylaw amendments. Merrimac requested and received permission to use most of an Executive Order 418 grant to update its zoning regulations. However, the entire bylaw was so weak that the committee and consulting team opted for a comprehensive zoning revision. In May 2004, town meeting gave nearly unanimous support to the proposed Zoning Bylaw and a new zoning map.

This Affordable Housing Plan relies on the new Merrimac Zoning Bylaw, Chapter 40B and access to state and federal financial resources to assure that Merrimac remains affordable to people living in or seeking to move to the Merrimack Valley region. Merrimac is a pleasant, low-key town that values its close-knit neighborhoods, charming town square, working farms, and views of the water. Its small local government and limited financial resources have not prevented the Town from successfully negotiating the best possible outcomes for several recently approved Chapter 40B developments. Unlike many communities across the state, Merrimac has not resisted every comprehensive permit that reached the Board of Appeals. Its accomplishments are impressive: today, Merrimac's Subsidized Housing Inventory is only 73 units short of the 10% statutory minimum.

## PLANNED PRODUCTION

A community's growth from village to modern suburb can be traced through the styles, age and location of its homes. As fields and forests gradually gave way to development, the homes that replaced them tell a story about the physical evolution of each city and town. This can be seen in Merrimac, where a Victorian town square surrounded by late 19<sup>th</sup>-century homes serves as a legacy of the Town's renowned horse-drawn carriage industry. In many communities across the Commonwealth, however, the loss of open space to new growth has led residents to oppose more housing development. Concerned about town character, natural resources and the cost of public schools, local officials seek ways to limit growth, yet the techniques they choose often bring unintended consequences, one of which is the demise of housing choice. In Merrimac, housing choice is not a euphemism for low-income housing. Rather, it means a range of housing types and prices so that homebuyers and renters have meaningful choices about where they will live.

In 2002, the Massachusetts Department of Housing and Community Development (DHCD) issued new regulations that reward communities for making steady progress toward providing their regional "fair share" of housing affordable to low- and moderate-income people. Known as "planned production," the regulation invites local governments to develop a plan for increasing the supply of affordable housing at an annual rate of at least .75 of 1% of their year-round homes. The plan must meet a series of state requirements, and ultimately it must be approved by DHCD. Once a community issues permits for enough units to satisfy the regulatory minimum, local

officials may deny new applications from affordable housing developers for up to 12 months and in some cases, 24 months.

The production plan regulation offers an incentive to cities and towns that do not meet a statewide affordable housing goal established by the legislature in 1969. When less than 10% of a community's housing units are affordable to low- and moderate-income people, G.L. c.40B, Sections 20-23 ("Chapter 40B") all but directs local officials to grant a "comprehensive permit" to qualified affordable housing developers. A comprehensive permit overrides zoning and other local requirements that interfere with the feasibility of building affordable housing units. By consolidating the approval powers of multiple town boards into one permit issued by the Board of Appeals, legislators hoped to accelerate low-income housing production in the suburbs. Chapter 40B allows a board of appeals to approve, conditionally approve or deny a comprehensive permit, but in communities that do not meet the 10% statutory minimum, a denied or conditionally approved permit can be appealed by the developer to the state Housing Appeals Committee (HAC). After achieving the statutory minimum of 10%, a board of appeals may still approve comprehensive permits, but its denial of one is no longer vulnerable to a state appeal process that favors affordable housing over other local needs.

In the absence of a state-approved production plan, communities that fall below the 10% goal are vulnerable to poorly planned developments. Other regulations that went into effect more than three years ago buffer towns from very large affordable housing developments and establish a "grace period" for denying additional comprehensive permits even without a production plan. For example, the "large-scale project cap" limits a single affordable housing development to a maximum of 150 units in Merrimac, and under the "recent progress rule," Merrimac would be able to deny a comprehensive permit for 12 months after approving one (or more) with at least 46 low-income units. With a DHCD-approved production plan, however, Merrimac could deny a comprehensive permit for 12 months following the approval of at least 17 new low-income units. By offering the production plan option, DHCD hoped to inspire communities to become more pro-active about affordable housing. An issue for Merrimac and most towns in Massachusetts is whether the planned production standard of .75 of 1% is realistic. If the Town relied entirely on new construction to provide more affordable housing units, Merrimac's production pipeline would have to increase significantly, with new affordable units supplementing market-rate housing development. In fact, Merrimac's minimum annual planned production requirement of 17 units is virtually the same as the total number of new market-rate homes built per year since 2000.<sup>1</sup>

The decision to prepare a Chapter 40B production plan is important because it signals a commitment by cities and towns to produce affordable housing. Several communities have submitted production plans to DHCD because they anticipated a large Chapter 40B development and hoped to gain some protection after issuing a comprehensive permit, but Merrimac has different interests. The Town has already thought through such basic issues as locations suitable for higher-density development, the kinds of residential uses it wants to encourage, the relationship between higher-density development and the location of goods and services, and access to sewer service. It also has boards and committees with considerable experience

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<sup>1</sup> U.S. Department of Commerce, Bureau of the Census, "Building Permits," Manufacturing, Mining and Construction Statistics <<http://www.census.gov/const/www/permitsindex.html>>.

reviewing Chapter 40B proposals; while the Master Plan was being developed in 2000-2001, the town received a comprehensive permit application for an unusually large development known as Chellis Hill, just before the large-scale project cap regulations went into effect. Since then, the town has approved three comprehensive permits and all of the developments are under construction or completed. If the Board of Appeals approves the revised, scaled-back version of Chellis Hill proposed by a different developer, the Town will be short of the 10% statutory minimum by less than 30 units. For a small town of 6,200 people and no professional planning staff, Merrimac's recent achievements are extraordinary.

## HOUSING NEEDS

Chapter 40B focuses on low- and moderate-income units, so it is not surprising to find that most local housing plans emphasize ways to create more low-income housing. Under Chapter 40B, a community is said to have unmet housing needs when less than 10% of its homes are affordable to low- and moderate-income people. "Low- and moderate-income" means households with income at or below 80% of area median income (AMI), adjusted for household size, for the urban or rural area in which a community is located. In Merrimac (Lawrence PMSA), a family of four with annual income of \$48,650 is "moderate income" and would qualify for affordable housing. According to the most recent Subsidized Housing Inventory, the state recognizes 6.80% all 2,281 year-round homes in Merrimac as housing affordable to low- and moderate-income people.<sup>2</sup>

Unfortunately, using Chapter 40B as the basis for measuring housing need means that communities often strive to meet an affordability target that does not match local reality. Three factors make Chapter 40B statistics a poor tool for estimating unmet housing needs. First, economic areas do not follow town boundaries. Second, Chapter 40B developments are not designed to meet local housing needs; instead, they respond to the strength of a regional housing market, and this is exactly what has happened in Merrimac. Third, the 10% statutory minimum was intended to promote a regional distribution of affordable housing, not to suggest that only 10% of the Commonwealth's households are low and moderate income. Throughout the state and in Merrimac's own region, low-and moderate-income households comprise a significantly larger percentage of all households than 10%.

Understanding housing needs requires an analysis of housing needs and barriers that exist within a regional market area. For Merrimac's plan, the regional area includes Merrimac, Amesbury, Salisbury, Newbury, Newburyport, Rowley, Georgetown, Haverhill, Groveland and West Newbury. According to the Subsidized Housing Inventory, these ten cities and towns have a combined total of 4,045 Chapter 40B units today, or 7.44% of their total year-round homes. Only one of the ten communities – Georgetown – currently exceeds the 10% statutory minimum. Meeting the state's 10% target on a region-wide basis requires 5,440 affordable units, or 1,395 Chapter 40B units in addition to the existing inventory. However, there are about 21,759 low- and moderate-income households in Merrimac and the surrounding cities and towns.<sup>3</sup> The

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<sup>2</sup> Massachusetts Department of Housing and Community Development (DHCD), Subsidized Housing Inventory, Rev. 1 March 2005 <<http://www.mass.gov/dhcd/Toolkit/shi.htm>>.

<sup>3</sup> U.S. Department of Housing and Urban Development (HUD), Office of Community Planning and Development, "Census 2000 Low and Moderate Income Summary Data," Census Data, <<http://www.hud.gov/offices/cpd/systems/census/index.cfm>>.

potential to underestimate housing needs is obvious, for even if all ten communities satisfied the state's goal, there would be 4.01 low- and moderate-income households for every one Chapter 40B unit. The same condition exists statewide.

It is tempting to measure housing needs by looking only at conditions in a single city or town, without regard for problems that exist in larger regions or among communities with overlapping market demands. Nearly 83,000 of all 275,419 households in Essex County qualify as low or moderate income and 46% live in non-urban communities like Merrimac. Federal census data indicate that 41% of Essex County's present population is comprised of people who moved into their present home after 1995 and more than 75% of them came from elsewhere within Essex County or another part of Massachusetts.<sup>4</sup> Although local officials in most cities and towns worry about the social, economic and fiscal impacts that affordable housing developments may bring to their communities, many households can choose to move from one town to another because they have economic mobility. For low- or moderate-income households, the shortage of affordable housing is effectively a shortage of choices.

Chapter 40B focuses on low- and moderate-income units, but housing needs are not limited to low- or moderate-income people. Accessible homes for households with a disabled family member, small housing units for older people who do not want the maintenance responsibilities of a single-family home, and a base of modestly priced rental units for young citizens entering the workforce are common needs in communities across the state. About 9% of Merrimac's working-age population has a disability,<sup>5</sup> but except for elderly public housing and a small inventory of group homes, Merrimac has no barrier-free housing. In addition, while Merrimac's region has begun to attract over-55 housing developments, most are expensive condominiums or cottage-size single-family homes with sale prices that far exceed the means of many senior citizens, especially households headed by people over 75. Although some age-restricted Chapter 40B developments have been approved in Massachusetts, the income and asset tests for eligibility to buy a Chapter 40B homeownership unit create more marketing and sales challenges than many people realize. Merrimac has already seen evidence of this dilemma in the over-55 comprehensive permit development on West Main Street, The Village at Merrimac.

## HOUSING BARRIERS

### Planning & Zoning

The conditions that impede affordable housing development are complex, intertwined and deeply rooted. The most oft-cited barrier to new affordable housing is the shortage of available land in Eastern Massachusetts. The land shortage stems from three conditions: the mature land use pattern in communities near Boston, physical constraints, and regulatory barriers to new growth. During the 1990s, land prices skyrocketed as the demand for homes outpaced the land supply. Zoning regulations that require homes to consume a large amount of land per dwelling unit contribute to this problem. In suburbs and small towns, most land is zoned for single-family residential development, primarily on one-acre or larger lots; in Merrimac, the minimum lot size for most of the Town's remaining land is 80,000 square feet. While some communities have multi-

<sup>4</sup> Census 2000, Summary File 3 Table P24.

<sup>5</sup> Census 2000, Summary File 3 Table P42.



family zoning districts, the land is largely built out. Merrimac has addressed this challenge by offering several options for higher-density development in sewered areas near the Town Center and along Route 110. Regionally, however, there is a lack of developable land zoned for two-family and multi-family housing.

Today, the word “density” ranks near the top of the list of unwanted land use policies, yet resistance to zoning for a mix of high-, moderate- and low-density development contributes to the conditions that suburban and small-town residents protest about growth. Excessive traffic, the loss of open and forested land along rural byways, and the fragmentation of wildlife habitat have occurred primarily due to a widespread, non-strategic application of low-density zoning. Merrimac has adopted zoning that couples low-density with higher-density development policies, but the Town is unusual. Here, local officials identified the resource areas that merit protection and consciously zoned other areas to receive development.

### **Environmental & Public Health Regulations**

Zoning makes affordable housing difficult to build, but it is not the only regulatory barrier to housing production. Federal and state authorities administer environmental laws to protect wetlands and water resources, clean up hazardous waste contamination, reduce non-point source pollution, manage stormwater runoff, and remove lead paint from older homes. About 13.5% of Merrimac is comprised of wetlands and open water, which helps to explain the prevalence of poorly drained soils and Title V constraints in many parts of town.<sup>6</sup> Title V regulations effectively require more land per dwelling unit in areas that directly influence drinking water supplies. While shared septic systems and alternative wastewater technologies may increase the development potential of marginal land, few alternative systems have been approved by DEP and they tend to be expensive. Finally, the presence of lead paint in older homes is particularly significant because many communities want to use existing housing stock for affordable units. Lead-based paint was banned in the United States in the 1970s, but large inventories of pre-1970 housing stock exist in Merrimac and throughout the immediate region. In Merrimac, 54% of all housing units and 57% of all renter-occupied units are in structures built prior to 1970.<sup>7</sup>

### **Race, Class and Cultural Divides**

Lack of population diversity usually signals a short supply of affordable housing and reinforces geographic barriers for minorities, low-income families and the elderly. Even though the state’s population has become more diverse, its suburbs and small towns remain fairly homogenous. In Merrimac and nearly all neighboring communities, more than 94% of the population is white and less than 1% of all white people are Hispanic. In addition, the overall aging of the region’s population has created a market for over-55 housing, but most over-55 developments and assisted living facilities built since 1995 are priced for high-end homebuyers and renters. A limited inventory of affordable, accessible housing exists for very-low-income people, but outside of Haverhill, there is virtually no accessible housing affordable to those of modest means.

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<sup>6</sup> MassGIS, DEP Wetlands (1:12,000) [GIS Database](http://www.mass.gov/mgis/wetdep.htm), <<http://www.mass.gov/mgis/wetdep.htm>>.

<sup>7</sup> Census 2000, Summary File 3 Tables P34, P36

## Housing Finance

Housing finance policies exacerbate the physical, regulatory and ideological barriers to decent housing for the poor. Before 1960, the nation's affordable housing was primarily public housing: units built and operated by housing authorities with federal financial support. Public housing and urban renewal dominated the federal housing agenda until the late 1960s, when new programs paved the way for private developers to build affordable housing. At the same time, the federal government created tenant-based rental assistance for low-income tenants to rent apartments from private landlords. These changes in federal policy occurred in the same era that produced Chapter 40B (1969). The earliest comprehensive permits included a privately developed project that produced the first Supreme Court decision on Chapter 40B, and many more like it were built in Boston-area suburbs throughout the 1970s. By the early 1980s, however, federal funding for affordable housing had begun to decline and states assumed increasing responsibility.

Mixed-income housing came into vogue to make affordable housing feasible with less federal or state financial support. Today, mixed-income developments serve as the primary supplier of affordable housing and a majority of the units are sold or rented at market rates. For example, the new Cobblers Brook Condominiums on Broad Street brought 24 new homeownership units into Merrimac, but only six are affordable to moderate-income homebuyers. Since the feasibility of these projects hinges on the market, they tend to be built in high-growth areas. Moreover, the affordable units are usually sold or rented at prices affordable to people at the high end of the income limits that govern most housing subsidy programs. As a result, many people who need low-cost housing cannot find a unit affordable to them, including but not only the elderly.

## Public Finance

The system of public finance creates major barriers to housing development of any kind, and affordable housing in particular. In Massachusetts, communities depend on property tax revenue to pay for community services and land use decisions often reflect concerns about the fiscal impacts of new growth. Schools are the most expensive service supplied by local governments, so winning support for housing is difficult because local officials and the public associate new homes with school enrollment growth. In most suburbs, new homes and housing resales attracted families over the past decade. When townhouses and multi-family units were built at all after the early 1990s, they typically offered choices to a restricted group of homebuyers or renters: the elderly, Boomlet singles and childless couples. To reduce conflicts with local permitting authorities, multi-family developers agreed to build age-restricted housing or they excluded three-bedroom units from their projects, even in most Chapter 40B developments, while spacious single-family homes on large lots proliferated throughout the suburbs.

In contrast to the large, expensive single-family homes associated with market-rate development, very little housing suitable and affordable for low- or moderate-income families has been built in Merrimac's region. "Childproof" housing has emerged as a preferred strategy to contain growth in community service costs, not only in Massachusetts but also nationally. Recurring Proposition 2 ½ overrides create a host of conflicts and serve as catalysts for another kind of housing affordability problem, particularly for the elderly, so communities are loath to promote them. Furthermore, local aid from state government is unreliable and vulnerable to changing political agendas. Inadequate tax revenue, inconsistent state aid policies and societal uneasiness about the

poor have merged to make low-income families with children the least well served of all people who need affordable housing.

### Development and Management Capacity

A final barrier that disproportionately affects non-urban communities is lack of capacity to develop, build and manage affordable housing. Funding for new public housing is all but non-existent, and while many federal and state programs offer grants and low-interest loans to non-profit development organizations, very few non-profits serve suburban and rural communities. There are at least two reasons: critical mass, and easier access to financing in the cities. Without a locally based non-profit developer or a stronger presence by regional organizations, communities like Merrimac have to rely on for-profit developers to provide some affordable units in their projects or to build mixed-income developments under Chapter 40B. Neither is an optimal solution.

### III. HOUSING NEEDS ANALYSIS

#### POPULATION CHARACTERISTICS

The character of Merrimac is visually defined by scenic landscapes and historic buildings, but the Town's most important attribute is its people. Working-class and upper-middle-income households, life-long residents and newcomers, young families and seniors all give Merrimac the feel of a down-to-earth small town that welcomes everyone. Although Merrimac is home to a large number of families with children, it also has a growing population of elderly residents. On both ends of the age spectrum, Merrimac is different from the state as a whole. For example, while the Commonwealth's under-18 population grew by 10.9% during the past decade, Merrimac's increased by 30%. Today, the average number of children under 18 in Merrimac families is .97, and nearly 40% of the town's family homeowners have children. Similarly, Merrimac's over-65 population increased 21.4% compared to 17.2% statewide. Merrimac's elderly population percent lags slightly behind Essex County and state averages, but it is roughly at the midpoint for communities in the immediate region.

Table 1: Comparison Population Statistics, Merrimac and Surrounding Communities

Community	Census 2000			% Change 1990-2000	
	Population	% Under 18	% Over 65	Persons <18	Persons >65
Amesbury	16,450	26.1%	12.0%	8.5%	8.5%
Georgetown	7,377	28.6%	9.4%	24.4%	11.5%
Groveland	6,038	29.6%	10.3%	30.9%	20.4%
Haverhill	58,969	25.7%	12.8%	22.6%	3.3%
MERRIMAC	6,138	29.0%	11.0%	30.1%	21.4%
Newbury	6,717	27.1%	10.7%	26.1%	12.7%
Newburyport	17,189	20.7%	14.0%	6.0%	4.5%
Rowley	5,500	28.0%	9.4%	26.1%	24.7%
Salisbury	7,827	23.6%	11.9%	9.7%	14.2%
West Newbury	4,149	30.0%	8.8%	27.1%	29.9%

Source: Bureau of the Census, Census 2000, SF1 Table P-12; 1990 Census, SF1 Table P0-11.

#### Household Composition

Merrimac's population has grown 38% since 1980, outpacing both the Merrimack Valley region (22%) and Essex County (11%).<sup>8</sup> Completion of I-495 in the 1960s facilitated travel between outlying areas and allowed greater housing choice to those commuting to work inside the Metropolitan Boston area. Growth rates nearby reinforce the role that highway improvements play in opening small towns to new development, for West Newbury, Newbury and Rowley have also experienced substantial population increases in the past 20 years. Merrimac's desirability to an expanding market of homebuyers is evident in its regionally high rate of population growth, even in an era of declining household size. In 1970, the typical Merrimac

<sup>8</sup> Massachusetts Institute for Social and Economic Research (MISER), "Population of Massachusetts Cities, Towns & Counties: Census Counts and Estimates, 1930-2000," [State Data Center](http://www.umass.edu/miser/dataop/data.htm), <http://www.umass.edu/miser/dataop/data.htm>.

household consisted of 3.31 people.<sup>9</sup> The town's average household size subsequently declined, consistent with national trends, but stabilized toward the end of the 20th century. Despite an influx of families with school children during the 1990s, Merrimac's average household size held to a constant of 2.7 people, in part because the number of non-family households grew at a somewhat faster rate than the number of families. Merrimac also has more "empty nester" families today than it did 10 years ago.<sup>10</sup> The community's mix of people remains one of its strong suits.

Table 2: Comparison Profile of Households

Community	Total Households	Household Type by % All Households		
		% Families	% 1-Person	% Non-Family
Amesbury	6,380	66.3%	26.8%	6.9%
Georgetown	2,566	78.9%	16.9%	4.2%
Groveland	2,058	82.9%	14.0%	3.0%
Haverhill	22,976	64.7%	28.6%	6.7%
MERRIMAC	2,233	76.1%	19.8%	4.1%
Newbury	2,514	72.2%	22.6%	5.2%
Newburyport	7,519	58.9%	33.1%	8.0%
Rowley	1,958	75.0%	20.1%	5.0%
Salisbury	3,082	64.6%	26.6%	8.8%
West Newbury	1,392	85.0%	11.9%	3.2%

Source: Census 2000, SF1, Table P-18.

Among the factors that attract families to Merrimac, the quality of its K-12 regional school district ranks very high. Merrimac children attend elementary school locally, joining their peers from West Newbury and Groveland in grades 7-12. Not surprisingly, all three communities have regionally high percentages of family households, as shown in Table 2. Trends reported by the Massachusetts Department of Education (DOE) indicate that between the 1992-1993 and 1998-1999 school years, Merrimac's share of region-wide K-12 enrollments climbed from 961 students to 1,204, or a 25.29% increase in six years: above-average for the state as a whole.<sup>11</sup> Census 2000 data shed light on what happened. During the 1990s, the population of 10 to 14-year olds in Merrimac jumped by nearly 50%. Moreover, while the population percent of children under 5 years of age dropped 3% across the state, the same age group increased by 15.8% in Merrimac.<sup>12</sup>

Households in Merrimac and other small towns nearby differ from their counterparts across the state in a variety of ways. For example, Merrimac has a much smaller percentage of very young households – headed by persons under 25 – and a significantly larger percentage of householders between 35-44 years of age. Only Haverhill and Amesbury have sizeable shares of young families, non-families and one-person households. In addition, Haverhill is the only community that is comparable to Essex County or the Commonwealth for percentage of households headed

<sup>9</sup> Merrimac Master Plan (2001), 23.

<sup>10</sup> Census 2000, Summary File 1 P20; 1990 Census, Summary File 1 Table P018.

<sup>11</sup> Massachusetts Department of Education, "Long-Term Trends in Individual District Enrollments PK-12," Statistical Comparisons <<http://finance1.doe.mass.edu/statistics/>>.

<sup>12</sup> Census 2000, Summary File 1 Table P12.

by persons over 75. The region's small towns serve as a magnet for families looking for homes outside the city, and in virtually all cases, most new residential development consists of single-family dwellings that are designed to capture the family homebuyer market. Another significant feature of households in Merrimac and several neighboring towns is that married couples make up a much larger percentage of all families than is true elsewhere in the state or throughout Essex County. Single-parent families are less likely to live in Merrimac than in Haverhill, Amesbury or Salisbury, and they are much less likely to live in Georgetown or West Newbury. The communities with the largest percentages of married-couple families also have more children per family, yet in Amesbury, Haverhill and Merrimac, the average number of children per family is higher in single-parent families headed by women than in married-couple families.

Table 3: Families by Type and Average Number of Children per Family

Community	Total Families	Family Type by %			Average # Children <18		
		Married Couples	Single Parents Men	Single Parents Women	Married Couples	Single Parents Men	Single Parents Women
Amesbury	4,228	77.3%	5.6%	17.1%	0.92	0.76	1.05
Georgetown	2,025	89.7%	2.4%	7.9%	1.03	0.57	0.84
Groveland	1,707	87.3%	3.1%	9.6%	1.03	0.74	0.87
Haverhill	14,858	72.7%	6.5%	20.8%	0.91	0.78	1.08
MERRIMAC	1,699	82.6%	3.8%	13.6%	0.97	0.83	1.01
Newbury	1,815	85.2%	4.5%	10.3%	0.95	0.64	0.82
Newburyport	4,429	80.9%	4.7%	14.4%	0.76	0.52	0.80
Rowley	1,468	86.0%	3.7%	10.3%	1.01	0.95	0.95
Salisbury	1,991	76.1%	7.1%	16.8%	0.82	0.75	0.85
West Newbury	1,183	90.4%	2.4%	7.3%	1.05	0.75	0.74

Source: Census 2000, SF1, Tables P34, P36.

### Group Quarters Population

About 3.5% of the Commonwealth's population lives in group-quarters housing, both institutional and non-institutional settings. Although prison inmates comprise the largest institutional population nationwide, this is not the case in Massachusetts. Here, most people living in institutional facilities are nursing home patients. The same is true in Merrimac's region, for nursing homes account for 87% of the institutionalized population, mainly in Haverhill, Amesbury and Newburyport. By definition, the non-institutional group quarters population includes students in college dormitories, soldiers in military barracks, and persons in group homes, shelters and rooming houses. In 2000, students at Bradford College in Haverhill made up nearly half of the region's non-institutional group quarters population, but Bradford College closed a few weeks after the effective date of Census 2000 (April 1). In small towns such as Merrimac, group homes for adults with disabilities are the primary source of group quarters housing for non-institutionalized people.<sup>13</sup>

### Race and Ethnicity

Although Merrimac's population is mixed by age and household income, the Town has a strikingly small minority population. Its population is 98% white, which is generally true for all

<sup>13</sup> Census 2000, Summary File 1 Tables P37, P38.

of the region's small towns. The only community with a racial make-up similar to that of Essex County overall is Haverhill, where 10.3% of the population is comprised of minorities. Compared to Merrimac's nearly all-white population, the racial and ethnic make-up of families with children is somewhat more diverse. In Merrimac's two elementary schools, 96.9% of the children are white, 1.1% African American, 0.3% Asian, and .06% Native American. Hispanic persons constitute 0.90% of the total population, and 1.1% of local school enrollments.<sup>14</sup>

## HOUSEHOLD & FAMILY INCOMES

Merrimac's median household income of \$58,692 is roughly at the middle of the immediate region and higher than the median for the state as a whole, \$50,502. According to Census 2000 data, Merrimac ranks 138 out of 351 cities and towns for median household income; in contrast, its 1990 state rank was 161 and its 1980 rank, 196. As Merrimac's population has grown, its population wealth has increased. However, a striking aspect of Merrimac's income profile is its small percentage of very affluent households, i.e., those with annual incomes over \$200,000: .7% locally compared to 3.8% for the state as a whole. Table 4 shows that the percentage of affluent households is larger in nearly all nearby communities.

Table 4: Economic Position of Households in Merrimac's Region

Community	Median Household Income	Percent Low- or Moderate-Income Households	Percent Affluent Households	Income of Affluent Householders as Percent of Aggregate Household Income
Amesbury	51,906	44.2%	1.5%	8.3%
Georgetown	76,260	28.7%	4.0%	12.6%
Groveland	69,167	31.7%	3.1%	9.6%
Haverhill	49,833	47.3%	1.6%	9.7%
MERRIMAC	58,692	41.2%	0.7%	4.0%
Newbury	74,836	29.8%	5.9%	24.3%
Newburyport	58,557	36.0%	4.5%	21.3%
Rowley	62,130	32.8%	4.3%	13.4%
Salisbury	49,310	48.8%	0.2%	0.9%
West Newbury	92,828	20.3%	8.4%	23.0%

Sources: Census 2000, U.S. Department of Housing and Urban Development.

Households in Merrimac are more likely to approximate the town-wide median income than is the case in many communities: the percentages of households at high and low ends of the income spectrum are much smaller. Even though the Town's population represents a mix of incomes, there are relatively few extremes. However, Merrimac's non-family households generally have much lower incomes than others, and among non-family households, the elderly tend to have very low incomes. As a result, the difference between the median income for elderly residents and that of the Town as a whole is somewhat more pronounced, as shown in Table 5. It is noteworthy that seniors comprise a larger percentage of non-family households in Merrimac (41%) than in any other community nearby, yet the Town's percentage of elderly households

<sup>14</sup> Census 2000, Summary File 1 Tables P-7, P-8; Department of Education School Profile Series.

overall (20%) is roughly average for the region as a whole. Its non-family households are more likely to be one-person households, and most are elderly persons living alone.

Table 5: Economic Position of Elderly Households

Community	Median Household Income				
	All Households	Age 65-74	Age 75+	Women Over 65 Living Alone	Men Over 65 Living Alone
Amesbury	51,906	30,769	17,313	13,673	16,628
Georgetown	76,260	26,250	16,563	11,799	12,222
Groveland	69,167	48,625	24,931	20,357	23,264
Haverhill	49,833	30,536	17,639	12,608	18,688
MERRIMAC	58,692	34,620	18,393	16,908	28,750
Newbury	74,836	41,510	20,000	12,308	50,125
Newburyport	58,557	28,958	18,576	12,958	18,929
Rowley	62,130	22,250	15,792	11,736	9,922
Salisbury	49,310	27,313	17,938	11,859	15,139
West Newbury	92,828	66,094	36,000	11,645	31,042

Source: Census 2000, Summary File 3 Tables P53, P56.

Families in Merrimac have higher incomes than households in general, but this is true in virtually all communities. The wealthiest families are married-couple families, the poorest, single women with children under 18. Less than 9% of the Town's families are single women with dependent children, a statistic that places Merrimac below national and state averages. However, its percentage of single-parent females exceeds that of most small towns nearby. Only Haverhill and Amesbury have larger percentages, and their single-parent females are among the lowest-income families in the region. More than half of all families living below the poverty thresholds in Haverhill and Amesbury are single-parent females with children under 18.<sup>15</sup>

Table 6: Economic Position of Families by Family Type

Community	Median Family Income	Median Income by Family Type			
		Married Couples	Single-Parent Males	Single-Parent Females	Single-Parent Females with Children <18
Amesbury	62,875	69,913	55,313	31,222	26,106
Georgetown	79,649	82,344	79,289	36,389	24,792
Groveland	73,996	77,695	32,143	44,306	40,417
Haverhill	59,772	68,442	39,297	30,551	23,691
MERRIMAC	69,118	75,572	36,923	36,250	32,500
Newbury	83,428	90,000	60,104	51,058	32,917
Newburyport	73,306	82,065	58,333	43,306	44,676
Rowley	75,527	85,000	61,528	45,573	22,917
Salisbury	56,327	62,017	50,893	34,792	31,331
West Newbury	99,050	103,448	200,000+	41,932	27,344

Source: Census 2000, Summary File 3 Tables P77, PCT40.

<sup>15</sup> Census 2000, Summary File 1 Table P34; Summary File 3 Table P90.



Despite the similarities in household wealth that can be seen town-wide, there are noteworthy differences in the economic position of Merrimac households by section of town. Middle- and upper-income couples and families are concentrated more in neighborhoods around Merrimac Square and south toward the Merrimack River. The same areas tend to have absorbed a much lower rate of population change than the rest of Merrimac, i.e., north of Route 110. Since most of Merrimac's new homes are north of Route 110, the presence of many newcomers there makes sense. While incoming families most likely have higher incomes than longer-term residents, they are not quite as affluent as households living near the center of town. Many of Merrimac's homes are fairly affordable to young, middle-income homebuyers, such as households trading up from a condominium or a small house.

## LABOR FORCE & EMPLOYMENT CHARACTERISTICS

Merrimac's labor force includes about 3,400 people, or 76% of the population over age 16.<sup>16</sup> A very small percentage of the employed labor force in Merrimac and West Newbury work locally (13.1%). In fact, only Newburyport exceeds the state average (31%) for residents working in their home city or town. While most of the region's labor force commutes to a job elsewhere in Essex County, a relatively large percentage of people in Merrimac, Haverhill and Salisbury work in New Hampshire. From a housing perspective, there are important relationships between a community's labor force, employment base and housing stock. When large numbers of residents have to commute to other communities for work, the reason is usually a small, weak local economy or a mismatch between housing prices and local wages. These conditions impede a town's ability to attract and keep a diverse base of businesses: a weak local economy does not appeal to desirable companies in an expansion mode, and a mismatch between housing prices and local wages increases the risk that businesses will find it too difficult to house their own workers.

Compared to the size of Merrimac's labor force, its employment base is extremely small. In a given year, local establishments employ approximately 844 workers. This means the jobs-to-labor force ratio in Merrimac is only .25. Except for manufacturing, local wages run 50-80% below average wages for the state as a whole, and 60-90% of wages paid throughout Essex County.<sup>17</sup> Non-durable goods manufacturing provides the most competitively priced jobs, but the Town has only five such establishments and they have a combined total of 29 employees. Since non-durable goods manufacturing is a fairly small component of the state's economy, its modest presence in Merrimac is not particularly surprising. However, other higher-wage industries are conspicuously under-represented in Merrimac or not represented at all, while lower-wage industries comprise much larger shares of the overall employment base. Although Merrimac has gained a few businesses in the past three years, it has also lost 12% of the jobs that existed locally in 2001, including jobs that paid relatively high weekly wages.

Measured in location quotients, Merrimac's local economy is fairly similar to the state for the percentage of jobs in food services and non-durable goods manufacturing, far below the state in

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<sup>16</sup> Census 2000, Summary File 3 Table P43.

<sup>17</sup> Massachusetts Department of Employment and Training, "ES-202: Merrimac," Economic Data Programs, <[http://lmi2.detma.org/lmi/lmi\\_es\\_a.asp](http://lmi2.detma.org/lmi/lmi_es_a.asp)>.

trade, professional services, finance and information services, and health care, and highly dependent on transportation and warehousing and the construction trades. Given the relatively high cost of housing and low wages paid by local establishments, the small percentage of Merrimac residents working in town makes sense. Unfortunately, the wage gap, the Town's limited number of jobs, the types of businesses located in Merrimac, and the amount of vacant and underutilized commercial land all point to a small, weak economy. They also illustrate a significant disparity between the cost of living in Merrimac and the economic value of the local employment base. Merrimac does not have a "primary" wage-earner economy, a fact reinforced by the 3.6-to-1 commuter-to-local employment ratio that exists in town today. For the most part, its economy is insular and susceptible not only to economic events far beyond Merrimac's borders, but also to sudden changes in local and sub-regional conditions.

Although the unemployment rate in Merrimac was well below regional and state averages two years ago, today it slightly exceeds the statewide rate.<sup>18</sup> The recent increase in unemployment is not due to a change in local conditions because Merrimac's small employment has very little impact on the economic position of most households. However, the make-up of its labor force appears to be at least one of the contributing factors. Compared to the rest of Essex County or the state as a whole, Merrimac's adult population has a somewhat lower level of educational attainment. About 31% of the town's over-25 population holds a college or graduate degree, but for nearly 60% the highest level of educational attainment is a high school diploma or an associate degree.<sup>19</sup> While Merrimac residents work in a wide range of occupations, economic data suggest that townspeople have quite different skills from the jobs generated by local establishments. Since virtually all of Merrimac's post-1990 housing growth consists of single-family homes and the median housing sale price has risen considerably, townspeople depend heavily on non-local jobs. Slightly less than 3% of Merrimac's labor force works at home, which is similar to the state average.

## HOUSING INVENTORY

Residential land use is Merrimac's principal type of development. In addition to established neighborhoods around Merrimac Square and along River Road in Merrimacport, residential development extends north of Route 110 along the valleys toward the New Hampshire state line. Since 1970, most of the growth along Merrimac's north-south roadways has consisted of incremental "Form A" or "Approval Not Required" lots, i.e., house lots with enough area and frontage on a public way to be exempt from subdivision approval. However, the Merrimac Planning Board also endorsed several new residential subdivisions during the 1990s. During the past decade, the number of housing units in Merrimac increased by 12.2% but the amount of land used for residential purposes increased by 42.3%.<sup>20</sup> From 2000-2004, Merrimac issued building

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<sup>18</sup> DET, "Labor Force and Unemployment Data: Local Unemployment Rates," Economic Data Programs, <[http://lmi2.detma.org/lmi/lmi\\_lur\\_a.asp](http://lmi2.detma.org/lmi/lmi_lur_a.asp)>.

<sup>19</sup> Census 2000, Summary File 3 Tables P-37, P-49.

<sup>20</sup> Town of Merrimac Assessor's Office, FY02 Parcel Database; MassGIS, "Land Use," GIS Database; Census 2000, Summary File 1 Tables P1, H1.

permits for approximately 115 new dwelling units. Nearly all were single-family home permits except the Cobblers Brook Condominium development.<sup>21</sup>

### Composition and Age of Housing Stock

For a small town, Merrimac has an unusual mix of housing units. Although its Census 2000 inventory of 2,295 homes is dominated by detached single-family dwellings (64.4%), they differ by age, style, size and setting. The spacious, late 19th century residences on West Main Street and around Merrimac Square are not the same as the large homes in new subdivisions, just as converted cottages at Lake Attitash are unlike the small capes and ranch-style homes in neighborhoods built during the 1950s. Large farmhouses and small homes dot the landscape throughout Merrimac, and along some of the town's oldest streets – Bear Hill Road, River Road, Middle Street, Birch Meadow and Main – stand numerous homes that pre-date 1800. Two-family and multi-family buildings, some owner-occupied, others for rent, along with elderly apartments and two mobile home parks enrich the town's housing stock and enable people from all walks of life to live here. Many turn-of-the-century mixed-use buildings with homes and businesses under one roof can be found all over town.

Despite Merrimac's colonial roots, its housing stock is relatively new. Over half of all housing units in Merrimac today were built after 1960. More significantly, over half of Merrimac's single-family homes were built after 1980. The completion of I-495 triggered a wave of residential growth, and each decade since then has seen a relatively high rate of unit production, from a low of 225 units in the 1960s to a high of 351 units in the 1980s. Two decades ago, Merrimac experienced a surge of condominium development that produced 92 of the town's 128 condominiums. Except for Chapter 40B developments, no new multi-family housing has been built in Merrimac since the 1980s, but single-family to two-family conversions are not uncommon. Table 7 provides a snapshot of the region's housing inventory.

Table 7: Housing Units by Type of Structure and Units Built 1995-2000

Community	Total	Units by Type of Structure					% Built 1995- 2000
		Detached Single- Family	2-4 Family	Multi- Family 5+ Units	Condo- minium	Mobile Homes & Other	
Amesbury	6,607	49.6%	22.3%	20.6%	7.28%	0.30%	5.9%
Georgetown	2,616	88.3%	8.1%	2.2%	1.38%	0.00%	9.3%
Groveland	2,096	86.5%	10.5%	1.9%	1.05%	0.00%	9.3%
Haverhill	23,737	42.6%	26.9%	20.4%	9.91%	0.15%	6.9%
MERRIMAC	2,295	64.7%	14.2%	6.7%	5.62%	8.71%	11.9%
Newbury	2,816	86.8%	7.7%	3.0%	1.63%	0.82%	6.1%
Newburyport	7,913	51.8%	19.7%	18.6%	9.76%	0.13%	4.4%
Rowley	2,004	76.3%	6.0%	15.4%	1.80%	0.45%	9.9%
Salisbury	4,156	56.4%	23.6%	9.5%	3.34%	7.17%	5.8%
West Newbury	1,423	93.0%	2.9%	0.7%	3.02%	0.42%	7.1%

Source: SF3, Tables H30, H56

<sup>21</sup> Census Bureau, "Building Permits."

Merrimac's newest single-family homes are larger than their predecessors. On average, homes built before 1940 contain 1,684 square feet (ft<sup>2</sup>) of living area, with 6.5 rooms and 3.0 bedrooms, and they occupy 1.1-acre lots. In contrast, single-family homes built between 1940-1969 are somewhat smaller: an average of 1,460 ft<sup>2</sup> of living area with 5.4 rooms and 2.7 bedrooms on 0.89-acre lots. However, the newest homes – those built from 1995-2000 – are much larger and they also have absorbed more land: 2,230 ft<sup>2</sup> of living area, with 7.5 rooms and 3.3 bedrooms, and 1.4-acre lots. Town-wide, the average size of a single-family home is 1,851 ft<sup>2</sup> (living area), and the average lot size, 1.29 acres. Compared to other towns in the region, Merrimac's homes are fairly small. Housing units with 7 or more rooms comprise well over half of all owner-occupied dwellings in all towns nearby except Salisbury, while the proportion of larger homes in Merrimac (48%) is closer to that of urban Haverhill and Newburyport.<sup>22</sup> To some extent, the percentage of smaller, owner-occupied dwellings in Merrimac is skewed by the Town's inventory of 240± mobile homes.

### Condition of Housing Stock

Overall, Merrimac's housing stock is in good condition. The Board of Assessors rates more than 90% of the town's single-family homes, condominiums, two-family homes and multi-family buildings as "average" or better. Where housing quality problems exist, they are more obvious in older mixed-use buildings and on parcels with more than one house.

## HOUSING MARKET

Regional market conditions favor large single-family homes with modern amenities, and the same trend can be seen in Merrimac. Two-acre zoning, moderately-priced land, Merrimac's natural resources and high-quality schools make the Town attractive to single-family home buyers. Merrimac has also seen its housing prices escalate significantly since the late 1990s. The median sale price of single-family homes spiked from \$189,450 in 1999 to \$405,000 in 2004, for a five-year increase of 114%. In fact, Merrimac has led the region for rate of growth in single-family home sale prices since 2000, as shown in Table 8. Condominiums and multi-family sale prices have been similarly affected in all ten communities. These trends go hand-in-hand with a slight increase in sales volume since 2000 and a decline in housing starts.

A decade ago, 77.7% of all occupied housing units in Merrimac were owner-occupied and 22.3%, renter-occupied. According to Census 2000, 82.9% of the town's occupied housing units are owner-occupied and 17.1% renter-occupied. Merrimac has experienced not only a shift in the proportion of rental occupancy, but also an actual reduction in the number of renter-occupied units: from 425 (1990) to 383 (2000). A high rate of homeownership typically correlates with stability and creates a base for community investment. Conversely, a limited number of rental units can act as a barrier to population diversity by narrowing the field of housing choice.

When the new Master Plan was prepared in 2000-2001, the executive director of the Merrimac Housing Authority described the Town's rental housing as "non-existent." His sentiments were echoed by many respondents to a survey distributed by the Master Plan Steering Committee: 48% said the town has a rental housing shortage.

<sup>22</sup> Census 2000, Summary File 3 Table H26.

Table 8: Change in Single-Family Home and Condominium Sale Prices, 1999-2004

Community	Single-Family Homes			Condominiums		
	1999	2004	% Chg	1999	2004	% Chg
Amesbury	\$159,900	\$322,650	101.8%	\$81,450	\$180,000	121.0%
Georgetown	\$234,900	\$413,500	76.0%	\$0	\$469,423	N/A
Groveland	\$208,500	\$355,000	70.3%	\$90,000	\$309,900	244.3%
Haverhill	\$159,900	\$299,900	87.6%	\$104,600	\$201,428	92.6%
MERRIMAC	\$189,450	\$405,000	113.8%	\$129,900	\$260,000	100.2%
Newbury	\$238,350	\$430,000	80.4%	\$160,000	\$555,238	247.0%
Newburyport	\$229,000	\$430,000	87.8%	\$179,900	\$324,200	80.2%
Rowley	\$309,590	\$354,000	14.3%	\$100,000	\$210,000	110.0%
Salisbury	\$155,000	\$310,000	100.0%	\$162,500	\$229,900	41.5%
West Newbury	\$329,900	\$462,000	40.0%	\$0	\$0	N/A

Source: The Warren Group.

## HOUSING AFFORDABILITY

Some people think “affordable housing” means subsidized housing: apartments or homes financed by tax dollars and occupied by low-income families, the elderly or persons with disabilities. To others, it means a modestly priced home that a town employee or school teacher could buy, an old house that needs work, or a “starter home” for young couples. In an effort to combat public resistance, housing advocates and policy makers sometimes substitute other euphemisms when they promote affordable housing: workforce housing, attainable housing, or simply, “Not Section 8.” In the past four years, state government has also encouraged communities to broaden the definition of affordable housing by including middle-class affordability as well: homes that can be purchased or rented by households with incomes between 81-110% AMI.

To people who cannot find a home or apartment at a price that fits their household budget, affordable housing is an immediate, real-life problem. The shortage of housing affordable to lower- and middle-income people is gradually restructuring the age and class composition of high-growth communities, affecting the elderly, modest wage earners and young families. Whether publicly subsidized or moderately priced in comparison to other homes on the market, “affordable housing” means this: the combined cost of rent and utilities, or the combined cost of a mortgage payment, insurance and property taxes is equal to or less than 30% of the household’s monthly gross income.

Not long ago, Merrimac contributed to the region’s supply of homes that sold at the lower end of the market. Since Chapter 40B does not recognize lower-end market housing as low-income housing, Merrimac’s affordably priced homes and cottages never counted toward the 10% statutory minimum but they were nonetheless important to maintaining the town’s socio-economic mix. About 450 single-family homes are assessed for tax purposes in a range that would be affordable to a median-income household, and 205 of them would also be affordable to a moderate-income household if they were sold at a price comparable to their assessed value, meaning at or below \$180,000. The homes are generally smaller and older than the balance of

Merrimac's housing stock: 1,182 ft<sup>2</sup>, 5.2 rooms and 2.5 bedrooms, built during the 1930s and located on lots of about .25 acres. About 69% are rated as "average" or "fair" by the assessors.

Homes like these traditionally supplied avenues to homeownership in Merrimac, but today their affordability is jeopardized by the same forces that have driven up home prices around Lake Attitash and in neighborhoods near Merrimac Square. The market has attracted homebuyers in search of a good investment opportunity: a home that can be acquired at a relatively low price, renovated and modernized, resulting in a substantial increase in value. Building permit records reinforce what is visually evident from a tour of the Town today. Major alterations, substantial reconstruction and "gut-rehab" projects abound in Merrimac. The volume of reinvestment in older homes indicates Merrimac's desirability, but as property values rise, the base of affordable homes will also decline.

Merrimac's two mobile home parks continue to provide low-cost housing and choice to small, primarily elderly households. Despite their exclusion from the Chapter 40B subsidized housing inventory, the mobile homes create a sizeable base of housing affordable to moderate-income households: about 8% of all housing units in Merrimac today. If Chapter 40B had been amended to recognize mobile homes as affordable housing, Merrimac's 200+/- mobile homes would have placed the Town well above the 10% statutory minimum.

### Subsidized Housing

The Chapter 40B Subsidized Housing Inventory shows that 155 units, or 6.80% of all year-round homes in Merrimac, meet the state's definition of low- and moderate-income housing. For Merrimac, Chapter 40B units include both conventional public housing and subsidized, privately owned affordable housing, much of it restricted for the elderly. When the Master Plan was completed in 2001, however, Merrimac's Subsidized Housing Inventory included only 76 units, all limited to elderly tenants. Since 2001, the Town has approved three comprehensive permits:

- Cobbler's Brook Condominiums: 24 units, including 6 for low- and moderate-income homebuyers.
- The Village at Merrimac: 30 units of over-55 housing, including 8 for low- and moderate-income seniors.
- Greenleaf Apartments: an expansion of a 26-unit rental development on W. Main Street to include 28 new apartments. Under an agreement negotiated with the owner, all 54 units are now subject to rental affordability restrictions.

Furthermore, 10 group home units have been added to Merrimac's Subsidized Housing Inventory, for a net gain of 78 affordable units in the past three years.<sup>23</sup> During the same period, Merrimac has been negotiating with the developer of large Chapter 40B development on East Main Street. What began as a proposal for 468 rental units on 70+ acres eventually changed to a 216-unit homeownership project. The original comprehensive permit application was submitted to the Board of Appeals one day before the large-scale project cap regulations went into effect on

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<sup>23</sup> The Town has asked DHCD to determine whether two additional group home residences are eligible for the Subsidized Housing Inventory.

September 1, 2001. With assistance from attorneys and several consultants, the Town was able to negotiate with the developer who acquired the site from the first comprehensive permit applicant, a local property owner. The Board of Appeals is expected to close the public hearing on Chellis Hill and issue a decision within the 40-day period required by Chapter 40B. If Chellis Hill is approved under the revised plan, it will increase Merrimac's condominium supply by more than 200 new units, including 54 affordable to moderate-income homebuyers.

Regionally, Chapter 40B units constitute nearly 7.5% of all year-round homes. According to the most recent Subsidized Housing Inventory (February 2005), Merrimac and Georgetown have achieved the greatest percentage increase in Chapter 40B units since 1997, when the last major Subsidized Housing Inventory update occurred prior to the release of Census 2000 housing data. Georgetown now exceeds the 10% statutory minimum while Newburyport and Salisbury have experienced a modest rate of growth in subsidized affordable housing.

Table 8: Subsidized Housing Inventory in Merrimac and Surrounding Communities

Community	2000 Census Year-Round Housing Units	Total Development Units	Total Subsidized Units	Percent Subsidized Units
Amesbury	6,570	504	453	6.90%
Georgetown	2,601	369	357	13.70%
Groveland	2,090	59	59	2.80%
Haverhill	23,675	2,098	2,014	8.50%
MERRIMAC <sup>24</sup>	2,281	195	155	6.80%
Newbury	2,614	94	94	3.60%
Newburyport	7,717	719	634	8.20%
Rowley	1,985	78	78	3.90%
Salisbury	3,456	358	175	5.10%
West Newbury	<u>1,414</u>	<u>26</u>	<u>26</u>	1.80%
Total	54,403	4,500	4,045	7.44%

Source: DHCD (February 2005).

### Housing Cost Burden

Monthly rents in Merrimac approximate HUD's Section 8 Fair Market Rents (FMR) for the Lawrence area. Supply more than cost appears to be the Town's primary rental housing barrier, but federal census data suggest that Merrimac does have a rental affordability gap. In 1990, 36.6% of Merrimac renters between 15-64, and 27.8% of those over 65, were housing cost burdened, i.e., they paid 30% or more of their monthly income on rent and utilities. By 2000, 50% of Merrimac's elderly renters were housing cost burdened but the incidence of younger cost-burdened tenants had not changed substantially (37%). While lower-income households comprised more than one-third of all housing cost burdened renters in Merrimac a decade ago, the situation had changed dramatically by 2000: 90% of Merrimac's cost-burdened renters had incomes in the low- or moderate-income range.

<sup>24</sup> The Subsidized Housing Inventory indicates that the 24-unit Carriage Square elderly housing development is subject to a use restriction that expires in 2006. The town needs to review the original comprehensive permit and determine whether the project is protected by the Ardemore decision.

## IV. OPPORTUNITIES & CONSTRAINTS

### PLANNING & ZONING

#### Housing Incentives

According to buildout studies prepared for the Merrimac Master Plan (2001) and the Executive Office of Environmental Affairs (2000), Merrimac's "by right" residential development potential is 600-620 additional housing units, which seems low compared to future growth estimates for many communities in Massachusetts.<sup>25</sup> However, Merrimac is small and since a majority of its vacant residential land is in the Agricultural Residential District, most of its new homes require at least 80,000 ft<sup>2</sup> of lot area. To provide residential development alternatives, the new Zoning Bylaw encourages multi-family housing and mixed-use developments where sewer service is available along Route 110 and around the Town Center (see Land Use Policies Map). In the future, Merrimac may establish a sewer service district to prevent more sewer extensions into outlying areas.

Although local officials also considered transfer-of-development-rights (TDR) regulations when the new Zoning Bylaw was written in 2003-2004, the concept was tabled because Merrimac does not have the professional staff or resources to manage such a complex regulatory scheme. Instead, they decided to encourage open space-residential development plans, and the new Zoning Bylaw also provides more flexibility for landowners to create larger-than-required lots north of Route 110 in exchange for frontage waivers. These techniques may be inadequate for curbing sprawl, but they are appropriate land use tools for a very small town in a state with a weak zoning act. As for steering higher-density housing to suitable areas, Merrimac chose to focus attention on development incentives and design regulations for the center of town.<sup>26</sup> Today, local regulations do not create artificial barriers to new housing development. Moreover, they will bring about superior commercial projects when the market is strong enough to attract new commercial investment.

#### Environmental & Cultural Resources

Merrimac has outstanding and irreplaceable natural assets that the Town needs to protect from adverse impacts of existing and future development: the Merrimack River, a rolling landscape with vast tracts of agricultural land, large, still-unaltered forests, and an intricate system of wetlands, surface water and ground water resources that support local and regional populations (see Environmental Resources Map). The location and extent of these resources areas have little relationship to the political boundaries that separate Merrimac from adjacent communities or the Commonwealth of Massachusetts from the State of New Hampshire. There are several habitat areas along the Merrimack River and north of Route 110, where large, contiguous tracts of undeveloped land serve as a buffer to riparian corridors and help to protect the quality of surface and ground water resources. For the most part, the open landscapes of northern Merrimac adjoin

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<sup>25</sup> The Master Plan was prepared concurrently with the EOEa buildout study series conducted from 1999-2001. For Merrimac, the Master Plan and EOEa buildout estimates were developed by analysts using different methodologies, yet they reached very similar conclusions.

<sup>26</sup> See V. Goals and Strategies, "Toolbox."



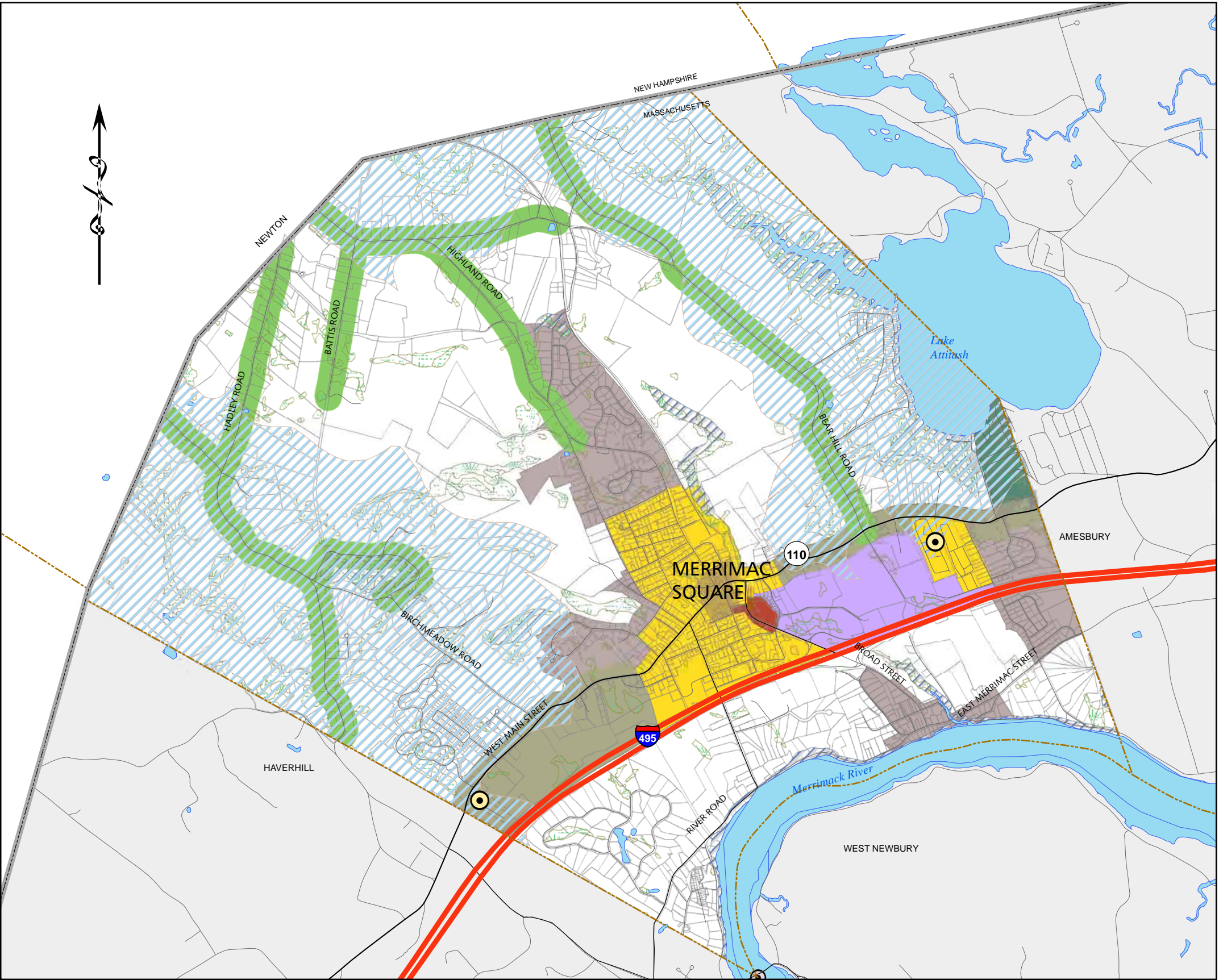
# Town of Merrimac

Chapter 40B Housing  
Production Plan  
October 2004

## Land Use Policies

### LEGEND

- State Boundary
- Cities and Towns
- Highway Class
  - Limited Access Highway
  - Multi-Lane Highway
  - Other Numbered Route
  - Major Collector
- Rivers, Lakes and Ponds
- Wetlands
- 100-Year Flood Plain
- Development Policies
  - Rural, limited development
  - Highway commercial area
  - Lakeside community, no new growth
  - Industry & offices
  - Moderate-density, mixed commercial-residential
  - Suburban neighborhoods
  - Town center
  - Higher-density, mixed-income, infill housing
  - Backlot development areas
  - Water Resource Protection District
- Existing mobile home parks



Data sources: MassGIS, Merrimack Valley Planning Commission, Merrimac Master Plan (2001).

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Miles



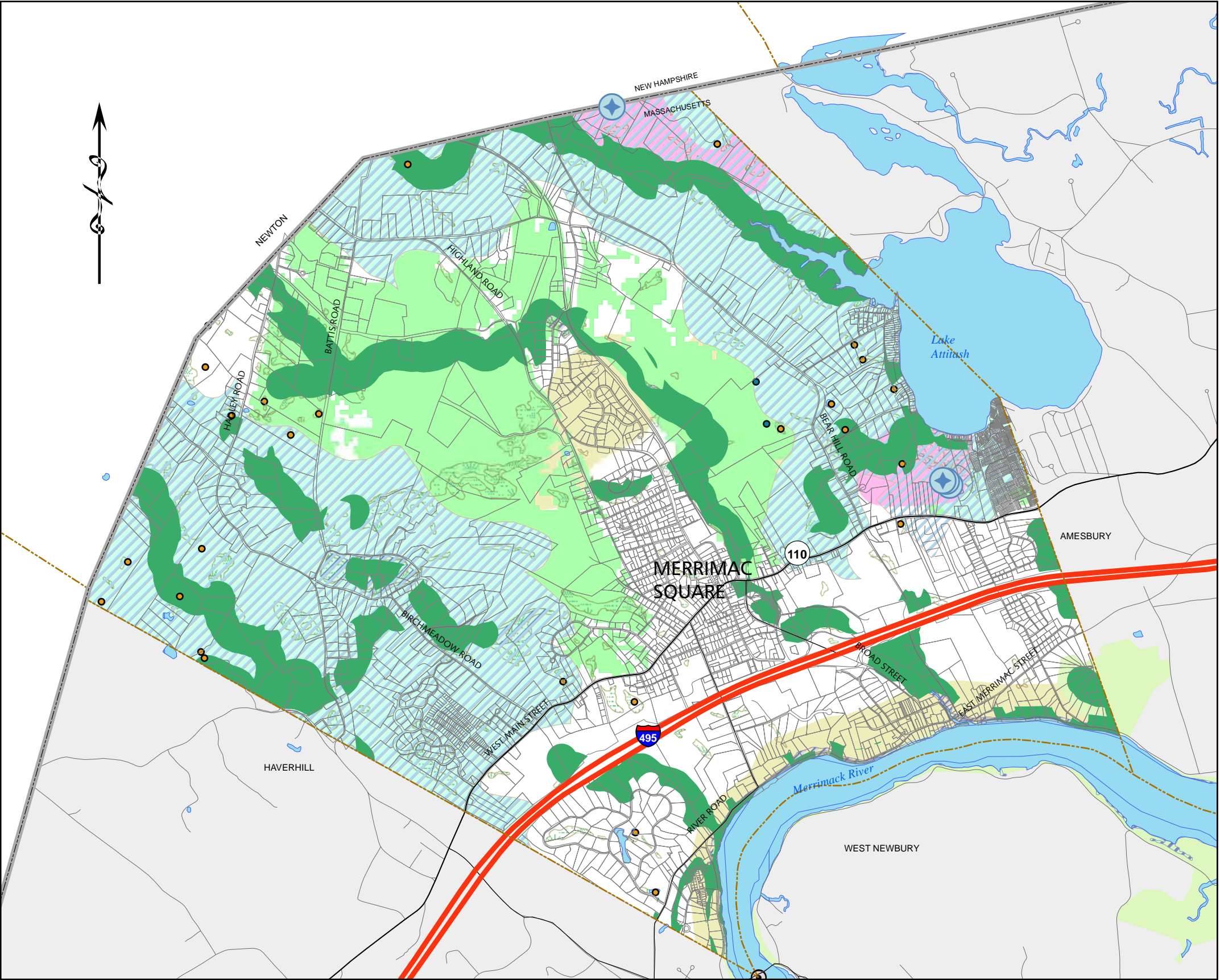
# Town of Merrimac

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## Environmental Resources

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- State Boundary
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- Wetlands
- 100-Year Flood Plain
- MRIP Natural Contiguous Lands
- NHESP BioMap Core Habitat
- NHESP Potential Vernal Pools
- NHESP Certified Vernal Pools
- NHESP Living Waters Core Habitat
- NHESP Priority Habitat
- MRIP Riparian Corridors
- Rivers, Lakes and Ponds
- Water Resource Protection District
- Aquifers



Data sources: MassGIS, Merrimack Valley Planning Commission, Merrimac Master Plan (2001).

0 0.25 0.5 1  
Miles

a simple frame of north-south byways that supported early colonial settlement patterns. Today, the same roads channel a significant amount of cut-through traffic between New Hampshire and I-495, a task for which they are poorly equipped by design and general condition.

All of Merrimac is located in the Merrimack River Watershed, which covers approximately 5,000 square miles in Massachusetts and New Hampshire. Lake Attitash, located along Merrimac's eastern boundary, doubles as a recreational and scenic resource for the region and a source of drinking water for neighboring Amesbury. The Town is crossed by a number of major and minor streams, such as Cobbler's Brook, which runs through the center of town to the Merrimack River, and the Back River that drains into Lake Attitash. Water quality is a major issue in Merrimac, in part because of past experience with polluted waters, but also the Town cannot afford to lose one of its wells to ground water contamination. In fact, Merrimac's water supplies are hard-pressed to meet existing demand and the Town lacks a workable, near-term solution to the problem.

Despite the wealth of historic architecture around Merrimac Square and north of the Merrimack River, Merrimac has very little in place to protect its historic built assets. Town officials disagree about the merits of creating local historic districts or instituting demolition delay. The Zoning Bylaw requires a special permit for new construction in Merrimac Square and encourages building alterations that conform to the Secretary of the Interior's Standards for Rehabilitation, but these are the only historic preservation tools in Merrimac today. It is hoped that new regulatory incentives to reuse older, obsolete buildings for a mix of uses, including multi-family housing, will dissuade property owners from resorting to demolition/rebuild projects.

## INFRASTRUCTURE, PUBLIC FACILITIES & SERVICES

Drinking Water Supplies. Water supply remains a significant challenge to Merrimac's future development. The water withdrawal permit for Merrimac's operating well fields on East Main Street and Bear Hill Road is 360,000 gpd. Over the past three years, however, the average-day demand in Merrimac has approximated 461,784 gpd. In short, Merrimac consumes about 1.28 gallons of water for every one gallon of authorized withdrawal. The Town had hoped to build a new water supply off Bear Hill Road near an existing public well, but since the land is located over the state line in Newton, NH and residents there objected to the plan, DEP has told local officials it is unlikely that the well be approved.

Sewer Service. Sewer capacity affects the location, rate and magnitude of development, especially commercial and industrial development and higher-density housing. Merrimac's wastewater treatment plant currently operates at about 80% of design capacity. When the Town developed its present sewer system in the late 1970s, state and federal environmental agencies encouraged communities to install and expand public sewers; toward that end, they offered generous matching-grant programs. Water management policies have changed considerably, however, resulting in a sharp decline in government aid for sewer projects. Since it is very unlikely that Merrimac will ever have the resources to expand the treatment plant, development policies today must assume that future sewer service will be dictated by the capacity of the existing plant.

The wastewater treatment facility can accommodate approximately 55% of Merrimac's estimated build-out population if the Town continues to implement plant and collection system

improvements recommended in a recently completed study. However, the plant does not have enough capacity – even with the recommended improvements – to accommodate both new residential development and the full commercial growth potential of Route 110. A critical sewer policy issue in Merrimac is whether extending the system should be curtailed in order to reserve plant capacity for reinvestment, infill and new development around Merrimac Center and along Route 110. Title V and local septic system regulations should govern development in the outlying sections of town. Toward this end, the Town needs to work toward limiting the extension of sewer lines unless there is a compelling environmental, public health or master plan implementation reason to do otherwise.

Public Schools. Merrimac is a member of the Pentucket Regional School District, a K-12 regional system that also serves West Newbury and Groveland. Each town provides its own elementary school building(s) and under the aegis of the Regional School Committee, the district provides middle and high school facilities. Several years ago, Merrimac invested in updating and improving the Sweetsir and Donohue elementary schools. Rising K-6 enrollments during the 1990s absorbed the limited amount of reserve capacity in each building, although not to the point that classrooms became overcrowded. Like a number of Massachusetts communities, Merrimac has begun to experience stabilized enrollments and the Town believes it has enough classroom and core facility space for an average rate of housing growth, based on current enrollment projections. Due to the sheer size of the Chellis Hill development, which will offer three-bedroom condominiums suitable for families, current enrollment projections may significantly underestimate the demands placed on Merrimac's schools in the near future.

## V. GOALS, POLICIES & STRATEGIES

### GOALS

Consistent with the Master Plan (2001), the Merrimac Affordable Housing Plan is governed by three goals:

- ♦ Provide housing choice throughout the community
- ♦ Protect and enhance the historic, intimate character of existing neighborhoods
- ♦ Use regulations effectively to promote neighborhood-scale design in new residential developments

### POLICIES

The Town's policies for affordable housing production include:

- ♦ Wherever possible, provide permanent affordability and assure that affordable housing restrictions meet the requirements of the Local Initiative Program.<sup>27</sup> Specifically, the Town will require that affordable units serve households with incomes no greater than 80% AMI and that affordability be protected by the following means:
  - ♦ A deed restriction in perpetuity for new construction and completion of rehabilitation; and
  - ♦ A Regulatory Agreement executed by the developer and the applicable housing subsidy program, unless the subsidy program does not require such an agreement. The units will also be marketed according to a fair and open process consistent with state and federal fair housing laws.
- ♦ Increase the number of affordable rental units.
- ♦ Give preference to infill development in and adjacent to the Town Center.
- ♦ Target affordable and below-market homes for young families, the elderly and persons with disabilities.
- ♦ Encourage development that provides direct access to public transportation and/or main roadways.
- ♦ Design for compatibility with Merrimac's rural, low-density development pattern. Comprehensive permits for single-family home development in non-sewered areas should

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<sup>27</sup> See Appendix A.

aim for a gross density of four units per acre and townhouse or garden apartment developments, 7-10 units per acre.

- ♦ Design for sensitivity in scale. Ideally, a comprehensive permit development should not exceed 100 units.
- ♦ Locate developments to avoid land use conflicts. New housing next to a farm or an industrial facility would be considered a potential land use conflict; new housing in established neighborhoods or in areas designated for mixed-use development will most likely be considered a compatible land use.
- ♦ Avoid locations in a Water Resource Protection Overlay District.
- ♦ Include more than minimum number of affordable units (over 25%).
- ♦ Address the housing needs of a broad range of incomes. “Affordable” units should not be limited to households at or below 80% of area median income. The town prefers developments that offer affordable housing to low-, moderate- and middle-income households, e.g., up to 120% of area median income.
- ♦ Include mix of unit sizes – one-, two- and three-bedroom units.
- ♦ Use opportunities to convert older buildings as a source of affordable housing. The conversion of large, older single family to duplex or multi-family units would generally be considered compatible with the Master Plan if the historic architectural features of the building are substantially preserved.
- ♦ Use opportunities to add an accessory apartment to existing single-family dwellings as a source of affordable units. Merrimac already allows accessory apartments as of right in the Village Residential District and by special permit in the Suburban Residential and Agricultural Residential Districts. The Town should consider using CDBG or other funds to assist homeowners with creating accessory apartments that will be affordable to low- or moderate-income people, and ask DHCD to place the units on the Subsidized Housing Inventory through the Local Initiative Program (LIP).

## TOOLBOX

### Zoning

To achieve these goals and policies, the Town has adopted a new Zoning Bylaw (2004) that promotes:

- ♦ Mixed-use development by right, subject to site plan and design review, in Merrimac Square.
- ♦ A mix of residential uses and infill development by right, subject to site plan and design review, in neighborhoods adjacent to Merrimac Square.
- ♦ Mixed-income housing development options for land that currently supports mobile home parks.

- ♦ Mixed-income multi-family housing development by special permit along Route 110.
- ♦ Housing for older persons, including independent living and assisted living units, by special permit.
- ♦ Accessory dwellings by right in established neighborhoods and by special permit in outlying sections of the Town.
- ♦ A wide range of home occupations by right, from specialty retail in the neighborhoods around Merrimac Square to wood lots and carpentry shops in the northern part of town.
- ♦ Architectural design guidelines and site development standards for all zoning districts.

### Comprehensive Permits

Since 2000, the Town has used comprehensive permits to create or preserve 69 units of affordable housing:

- ♦ Cobblers Brook Condominiums, a 24-unit homeownership development on Broad Street with 6 affordable units.
- ♦ The Village at Merrimac, an “over-55” development with 8 affordable homeownership units on West Main Street.
- ♦ Greenleaf Apartments, a pre-existing 28-unit rental development that has added 27 new units and placed all 56 under affordable rent restrictions.

The Town expects to approve another comprehensive permit a large condominium development on East Main Street, to be built in phases over a five-year period. The project includes 54 affordable two- and three-bedroom units.

### Future Considerations

In addition to these tools, Merrimac is exploring some related techniques to produce affordable homeownership and rental housing:

- ♦ Use HOME or CDBG funds to subsidize improvements to existing housing stock or to facilitate conversions that require a special permit.
- ♦ Consider an inclusionary zoning bylaw with a continuum of incentives for the Rural Highway District (Route 110) and the Agricultural-Residential District, such as:
  1. Require developments over certain size to include affordable unit on site or elsewhere in Town, or to pay a fee in lieu of building affordable units.
  2. Encourage fees over units in the Agricultural-Residential District and invest the revenue in Rural Highway District developments that have access to sewer service.
  3. Apply revenue to acquisition of existing units and protect them with a long-term affordable housing restriction, such as the LIP model deed rider.

- ♦ Be creative in using frontage waivers to encourage affordable housing in the Village Residential and Suburban Residential Districts:
  1. Require extra land and affordable units
  2. Require that a portion of the extra land be deeded to the Town for future scattered-site affordable housing.
- ♦ Establish a fund to cover management and oversight of units, and compensate the Merrimac Housing Authority for management services.

#### ESTIMATED CHAPTER 40B PRODUCTION SCHEDULE

##### Planned Production Goals

Current Subsidized Housing Inventory (Units)		155
10% Statutory Minimum (10% x 2,281)		228
Current Shortfall		73
Year	Annual Goal	Balance
2005	54	19
2006	0	19
2007	17	2
2008	2	0



## Appendix A<sup>28</sup>

### SAMPLE AFFORDABLE HOUSING RESTRICTION

#### LOCAL INITIATIVE PROGRAM

#### **DEED RIDER For Ownership Project**

(annexed to and made part of that certain deed (the "Deed")

from ("Grantor")

to ("Grantee")

dated , 200 .)

#### WITNESSETH

WHEREAS, pursuant to M.G. L. c. 40B, §§20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April, 1989, regulations have been promulgated at 760 CMR 45.00 et seq. (the "Regulations") which establish the Local Initiative Program ("LIP");

WHEREAS, the Department of Housing and Community Development, the "Successor Agency" to the Executive Office of Communities and Development of the Commonwealth of Massachusetts, duly organized and existing pursuant to Chapter 204 of the Acts of 1996, administers the LIP Program on behalf of the Commonwealth;

WHEREAS, it is the purpose of the LIP Program to give cities and towns greater flexibility in their efforts to provide affordable housing to households having low and moderate incomes.

WHEREAS, the City/Town of (the "Municipality") acting by and through its Chief Elected Official (as that term is defined in the Regulations) has elected to participate in the LIP Program:

WHEREAS, DHCD has determined that the rights and restrictions granted herein to DHCD and to the Municipality serve the public's interest in the creation and retention of affordable housing for persons and families of low and moderate income and in the restricting of the resale price of property in order to assure its affordability by future low and moderate income purchasers;

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<sup>28</sup> The Town has attached this model deed rider to the Production Plan in order to address Planned Production regulations. At DHCD's request, Merrimac agrees to modify the model deed rider to reflect the provisions outlined on p. 26 of this plan.

WHEREAS, pursuant to the LIP Program, eligible purchasers such as the Grantee are given the opportunity to purchase certain property at a discount of the property's appraised fair market value if the purchaser agrees to convey the property on resale to an eligible purchaser located by the Municipality or DHCD, to the Municipality, or to DHCD for a "Maximum Resale Price" equal to the lesser of (a) the appraised fair market value of the property at the time of resale, as determined by DHCD, multiplied by the applicable Discount Rate (as hereinafter defined), or (b) the amount equal to the purchase price for which a credit-worthy eligible purchaser earning seventy percent (70%) of area median income could obtain mortgage financing (based on underwriting assumptions used by bona fide mortgage lenders at the time of resale) and assuming that such an eligible buyer will not spend more than thirty percent (30%) of household income on the payment of principal, interest, real estate taxes, condominium or homeowner's fees, mortgage insurance, and homeowner's insurance premiums), as shall be calculated by DHCD in its sole discretion. The term "bona fide mortgage lenders" shall mean mortgage lenders offering thirty (30) year fixed rate mortgages with interest rates no greater than conforming, conventional market rate mortgages. Notwithstanding anything in this Deed Rider, the Maximum Resale Price shall not be less than the purchase price that the Grantee paid for the Property plus extraordinary capital expenses paid out-of-pocket by Grantee prior to closing, provided that DHCD and the Municipality shall have given written authorization for incurring such expense prior to the expense being incurred, and plus any necessary marketing expenses as may have been approved by DHCD and the Municipality.

WHEREAS, the Grantor and the Grantee are participating in the LIP Program, and in accordance with the LIP Program the Grantor is conveying that certain real property more particularly described in the Deed ("Property") to the Grantee at a consideration which is less than the appraised value of the Property; and

WHEREAS, a Discount Rate equal to % of the appraised fair market value of the Property (the "Discount Rate") as determined by DHCD is hereby assigned to the Property, and such Discount Rate shall be used in determining the Maximum Resale Price of the Property (UPON ITS DETERMINATION OF THE DISCOUNT RATE FOR THE PROPERTY, DHCD WILL ISSUE TO THE GRANTEE A CERTIFICATE IN RECORDABLE FORM (THE "DISCOUNT RATE CERTIFICATE") WHICH STATES THE APPROVED DISCOUNT RATE FOR THE PROPERTY AND WHICH SHALL BE RECORDED WITH THE FIRST DEED OF THE PROPERTY.);

NOW THEREFORE, as further consideration from the Grantee to the Grantor, DHCD and the Municipality for the conveyance of the Property at a discount in accordance with the LIP Program, the Grantee, his heirs, successors and assigns, hereby agrees that the Property shall be subject to the following rights and restrictions which are hereby imposed for the benefit of, and shall be enforceable by, the Grantor's assignees and designees, the Director of the Department of Housing and Community Development, or its successors, assigns, agents and designees ("Director") and the Municipality, acting by and through its Chief Elected Official.

1. Right of First Refusal: (a) When the Grantee or any successor in title to the Grantee shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the

Grantee shall notify the Director and the Municipality in writing of the Grantee's intention to so convey the property ("Notice"). The Notice shall contain an appraisal of the fair market value of the Property (assuming the Property is free of all restrictions set forth herein) acceptable to the Director and the Municipality prepared by a real estate appraiser acceptable to the Director and the Municipality and qualified to appraise property for secondary mortgage markets and recognized as utilizing acceptable professional appraisal standards in Massachusetts, and the Notice shall set forth the Discount Rate and the Maximum Resale Price of the Property. Within thirty (30) days of the giving of the Notice by the Grantee, the Municipality shall notify the Grantee in writing (with a copy to the Director) as to whether the Municipality is proceeding to locate an eligible purchaser of the Property or the Municipality shall exercise its right of first refusal to purchase the Property (the Municipality's Notice.) If the Municipality's Notice states that the Municipality is not proceeding to locate an eligible purchaser and that the Municipality shall not exercise its right of first refusal to purchase the Property, or if the Municipality fails to give the Municipality's Notice within said thirty (30) days then, and only under such circumstances, the Director may, at any time from the thirty first (31st) day after the giving of the Notice to and including the fortieth (40th) day after the giving of the Notice, notify the Grantee in writing (with a copy to the Municipality) as to whether the Director is proceeding to locate an eligible purchaser of the Property or whether the Director shall exercise its right of first refusal, to purchase the Property (the Director's Notice".) For the purpose of this Deed Rider, an "eligible purchaser" shall mean a purchaser who satisfies the criteria set forth in the LIP Program guidelines in effect at the time the Municipality or the Director locates such purchaser, and who, if located by the Municipality, is ready and willing to purchase the Property within ninety (90) days after the Grantee gives the Notice, or who, if located by the Director, is ready and willing to purchase the Property between ninety (90) days and one hundred five (105) days after the Grantee gives the Notice.

(b) In the event that (i) the Municipality's Notice states that the Municipality does not intend to proceed to locate an eligible purchaser and that the Municipality does not intend to exercise its right of first refusal to purchase the Property, or the Municipality fails to give the Municipality's Notice within the time period specified above and (ii) the Director's Notice states that the Director does not intend to proceed to locate an eligible purchaser and that the Director does not intend to exercise its right of first refusal to purchase the Property, or the Director fails to give the Director's Notice within the time period specified above, the Grantee may convey the Property to any third party at fair market value, free of all restrictions set forth herein, provided, however, all consideration and payments of any kind received by the Grantee for the conveyance of the Property to the third party which exceeds the Maximum Resale Price shall be immediately and directly paid to the Municipality. Upon receipt of this excess amount, if any, the Municipality, acting by and through its Chief Elected Official, and the Director or the Director's designee shall issue to the third party a certificate in recordable form (the "Compliance Certificate") indicating the Municipality's receipt of the excess amount, if applicable, or indicating that no excess amount is payable, and stating that the Municipality and the Director have each elected not to exercise its right of first refusal hereunder and that all rights, restrictions, agreements and covenants set forth in this Deed Rider shall be henceforth null and void. This Compliance Certificate is to be recorded in the appropriate Registry of Deeds or registered with the appropriate Registry District of the Land Court and such Compliance Certificate may be relied upon by the then owner of the Property and by third parties as constituting conclusive evidence that such excess amount, if any,

has been paid to the Municipality, or that no excess amount is payable, and that the rights, restrictions, agreements and covenants set forth herein are null and void. The sale price to a third party shall be subject to DHCD's approval, with due consideration given to the value set forth in the appraisal accompanying the Notice. DHCD's approval of the sale price shall be evidenced by its issuance of this Compliance Certificate.

(c) In the event the Municipality, within said thirty (30) day period, notifies the Grantee that the Municipality is proceeding to locate an eligible purchaser or that the Municipality shall exercise the Municipality's right of first refusal to purchase the Property, the Municipality may locate an eligible purchaser, who shall purchase the Property at the Maximum Resale Price subject to Deed Rider satisfactory in form and substance to DHCD, within ninety (90) days of the date that the Notice is given or the Municipality may purchase the Property itself at the Maximum Resale Price within ninety (90) days of the date that the Notice is given. If the Municipality shall fail to locate an eligible purchaser who purchases the Property within ninety (90) days of the date that the Notice is given, and if the Municipality fails to purchase the Property itself within said period, then, and only in such circumstances the Director, without any additional notice to the Grantee, may between ninety one (91) days of the date that the Notice is given and one hundred five (105) days of the date that the Notice is given, purchase the Property itself at the Maximum Resale Price, or locate an eligible purchaser, who shall between ninety one (91) days and one hundred five (105) days of the date that the Notice is given purchase the Property at the Maximum Resale Price, subject to a Deed Rider satisfactory in form and substance to DHCD. If more than one eligible purchaser is located by the Municipality, the Municipality shall conduct a lottery or other like procedure approved by DHCD to determine which eligible purchaser shall be entitled to the conveyance of the Property. If more than one eligible purchaser is located by the Director, the Director shall conduct a lottery or other like procedure in the Director's sole discretion to determine which eligible purchaser shall be entitled to the conveyance of the Property.

(d) If an eligible purchaser is selected to purchase the Property, or if the Municipality or the Director elects to purchase the Property, the Property shall be conveyed by the Grantee to such eligible purchaser or to the Municipality or the Director as the case may be, by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed (ii) any lien for municipal betterments assessed after the date of the Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the Deed from the Grantor to Grantee, (v) a Regulatory Agreement among DHCD, the Municipality and [the Project Sponsor] dated and recorded with the Registry of Deeds in Book , Page , (the "Regulatory Agreement") or any successor regulatory agreement entered into between DHCD and the Municipality pursuant to the provisions of Section 16 of the Regulatory Agreement, (vi) such additional easements, restrictions, covenants and agreements of record as the Municipality and the Director consent to, such consent not to be unreasonably withheld or delayed, and (vii) in the event that the Property is conveyed to an eligible purchaser, a Deed Rider satisfactory in form and substance to DHCD which the Grantee hereby agrees to annex to said deed.

(e) Said deed shall be delivered and the purchase price paid (the "Closing") at the Registry of Deeds in the County where the Property is located, or at the option of the eligible purchaser (or the Municipality or the Director, as the case may be, if the Municipality or the Director is purchasing the Property), exercised by written notice to the Grantee at least five (5) days prior to

the delivery of the deed, at such other place as the eligible purchaser (or the Municipality or the Director, as the case may be, if the Municipality or the Director is purchasing the Property) may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the eligible purchaser (or the Municipality or the Director, as the case may be, if the Municipality or the Director is purchasing the Property) to the Grantee, which date shall be the least five (5) days after the date on which such notice is given, and if the eligible purchaser is located by the Municipality, or if the Municipality is purchasing the Property no later than ninety (90) days after the Notice is given by the Grantee, or if the eligible purchaser is located by the Director, or if the Director is purchasing the Property, no earlier than ninety one days (91) days after the Notice is given by the Grantee and no later than one hundred five (105) days after the Notice is given by the Grantee.

(f) To enable Grantee to make conveyance as herein provided, Grantee may if he so desires at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests; all instruments so procured to be recorded simultaneously with the delivery of said deed.

(g) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the eligible purchaser or by the Municipality or the Director.

(h) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date hereof, reasonable wear and tear only excepted.

(i) If Grantee shall be unable to give title or to make conveyance as above stipulated, or if any change of condition in the Property not included in the above exception shall occur, then Grantee shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition hereby provided for. The Grantee shall use best efforts to remove any such defects in the title whether voluntary or involuntary and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing shall occur fifteen (15) days after notice by Grantee that such defect has been cured or that the Property has been so restored. The eligible purchaser (or the Municipality or the Director, as the case may be, if the Municipality or the Director is purchasing the Property) shall have the election, at either the original or any extended time for performance, to accept such title as the Grantee can deliver to the Property in its then condition and to pay therefore the purchase price without deduction, in which case the Grantee shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Grantee shall, unless the Grantee has previously restored the Property to its former condition, either:

- (i) pay over or assign to the eligible purchaser or the Municipality or the Director as the case may be, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonable expended by the Grantee for the partial restoration, or
- (ii) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the

condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the eligible purchaser or to the Municipality or the Director, as the case may be, a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonable expended by the Grantee for any partial restoration.

(j) If the Municipality fails to locate an eligible purchaser who purchases the Property within ninety (90) days after the Notice is given, and the Municipality does not purchase the Property during said period, and the Director fails to locate an eligible purchaser who purchases the Property between ninety one (91) days and one hundred five (105) days after the Notice is given, and the Director does not purchase the Property within said period, then following expiration of one hundred five (105) days after the Notice is given by Grantee, the Grantee may convey the Property to any third party at fair market value, free and clear of all rights and restrictions contained herein, including, but not limited to the Maximum Resale Price, provided, however, all consideration and payments of any kind received by the Grantee for the conveyance of the Property to the third party which exceeds the Maximum Resale Price shall be immediately and directly paid to the Municipality. Upon receipt of this excess amount, if any, the Municipality and the Director shall issue to the third party a Compliance Certificate in recordable form indicating the Municipality's receipt of the excess amount, if any, and indicating that the Municipality and the Director have each elected not to exercise its right to locate an eligible purchaser and its right of first refusal hereunder and that all rights, restrictions, agreements and covenants contained herein are henceforth null and void. This Compliance Certificate is to be recorded in the appropriate Registry of Deeds or registered with the appropriate Registry District of the Land Court and such Compliance Certificate may be relied upon by the then owner of the Property and by third parties as constituting conclusive evidence that such excess amount, if any, has been paid to the Municipality and that the rights, restrictions, agreements and covenants set forth herein are null and void. The sale price to a third party shall be subject to DHCD's approval, with due consideration given to the value set forth in the appraisal accompanying the Notice. DHCD's approval of the sale price shall be evidenced by its issuance of this Compliance Certificate.

2. Resale and Transfer Restrictions: Except as otherwise stated herein, the Property or any interest, therein shall not at any time be sold by the Grantee, the Grantee's successors and assigns, and no attempted sale shall be valid, unless:

(a) the aggregate value of all consideration and payments of every kind given or paid by the eligible purchaser (as located and defined in accordance with Section 1 above) or the Municipality or the Director, as the case may be, to the then owner of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and (i) if the Property is conveyed to an eligible purchaser, unless a certificate (the "Eligible Purchaser Certificate") is obtained and recorded, signed and acknowledged by the Director or the Director's designee and the Municipality acting by and through its Chief Elected Official which Eligible Purchaser Certificate refers to the Property, the Grantee, the eligible purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the eligible purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and unless there is also recorded a new Deed Rider executed by the eligible purchaser which new Deed Rider the

Eligible Purchaser Certificate certifies is satisfactory in form and substance to DHCD and the Municipality; (ii) if the Property is conveyed to the Municipality unless a Certificate (the "Municipal Purchaser Certificate") is obtained and recorded, signed and acknowledged by the Director or the Director's designee and by the Municipality, acting by and through its Chief Elected Official, which Municipal Purchaser Certificate refers to the Property, the Grantee, the Municipality, and the Maximum Resale Price for the Property and states that the proposed conveyance, sale or transfer of the Property to the Municipality is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider; or

(b) pursuant to Sections 1(b) or 1(f), any amount in excess of the Maximum Resale Price which is paid to the Grantee by a purchaser who is permitted to buy the Property pursuant to Sections 1(b) or 1(f), is paid by the Grantee to the Municipality, and the Director or the Director's designee and the Municipality acting by and through its Chief Elected Official execute and deliver a Compliance Certificate as described in Section 1(b) or 1(f) for recording with the appropriate registry of deeds or registry district.

(c) Any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate or an Eligible Purchaser Certificate or a Municipal Purchaser Certificate referring to the Property as conclusive evidence of the matters stated therein and may record such Certificate in connection with conveyance of the Property, provided, in the case of an Eligible Purchaser Certificate and a Municipal Purchaser Certificate the consideration recited in the deed or other instrument conveying the Property upon such resale shall not be greater than the consideration stated in the Eligible Purchaser Certificate or the Municipal Purchaser Certificate as the case may be. If the Property is conveyed to the Director, the acceptance by the Director of a deed of the Property from the Grantee and the recording of such deed shall be deemed conclusive evidence that all rights, restrictions, covenants and agreements set forth in this Deed Rider have been complied with and no certificate to that effect shall be necessary to establish the validity of such conveyance. If the Property is conveyed to the Municipality, any future sale of the Property by the Municipality shall be subject to the provisions of Section 4 of the Regulatory Agreement.

(d) Within ten (10) days of the closing of the conveyance of the Property from Grantor to Grantee, the Grantee shall deliver to the Municipality and to the Director a true and certified copy of the Deed of the Property, together with information as to the place of recording thereof in the public records. Failure of the Grantee, or Grantee's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance.

(f) The Grantee understands and agrees that nothing in this Deed Rider or the Regulatory Agreement in any way constitutes a promise or guarantee by DHCD or the Municipality that the Grantee shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

3. Restrictions Against Leasing and Junior Encumbrances: The Property shall not be leased, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Director and the Municipality, provided, however, that this provision shall not apply to a first mortgage granted in connection with this conveyance. Any rents, profits, or proceeds from any transaction described in the last preceding sentence which transaction has not received the prior written consent of the Director and the Municipality shall be paid to and be the

property of the Municipality. In the event that the Director and the Municipality in the exercise of their absolute discretion consent to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction which exceed the carrying costs of the Property as determined by DHCD and the Municipality in their sole discretion shall be paid to and be the property of the Municipality.

4. Rights of Mortgagees: (a) Notwithstanding anything herein to the contrary, but subject to the next succeeding paragraph hereof, if the holder of record (other than the Grantor or any person related to the Grantor by blood, adoption, or marriage, or any entity in which the Grantor has a financial interest) of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender or its successors or assigns (other than the Grantor, or any person related to the Grantor by blood, adoption or marriage, or any entity in which the Grantor has a financial interest) shall acquire the Property by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the Property in lieu of foreclosure, and provided that the holder of such mortgage has given DHCD and the Municipality not less than (60) days prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure, the rights and restrictions contained herein shall not apply to such holder upon such acquisition of the Property, any purchaser (other than the Grantor or any person related to the Grantor by blood, adoption or marriage, or any entity in which the Grantor has a financial interest) of the Property at a foreclosure sale conducted by such holder, or any purchaser (other than the Grantor or any person related to the Grantor by blood, adoption or marriage, or any entity in which the Grantor has a financial interest) of the Property from such holder, and such Property shall thereupon and thereafter be free from all such rights and restrictions.

(b) In the event such holder, conducts a foreclosure or other proceeding enforcing its rights under such mortgage and the Property is sold for a price in excess of the greater of (i) the sum of the outstanding principal balance of the note secured by such mortgage plus all future advances, accrued interest and all reasonable costs and expenses which the holder is entitled to recover pursuant to the terms of the mortgage and (ii) the Maximum Resale Price applicable on the date of the sale, such excess shall be paid to the Municipality in consideration of the loss of the value and benefit of the rights and restrictions herein contained held by the Director and the Municipality and released by the Director and the Municipality pursuant to this section in connection with such proceeding (provided, that in the event that such excess shall be so paid to the Municipality by such holder, the Municipality shall thereafter indemnify such holder against loss or damage to such holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such holder to the Municipality in accordance herewith, provided that such holder shall give the Municipality prompt notice of any such claim and shall not object to intervention by the Municipality in any proceeding relating thereto.) In order to determine the Maximum Resale Price of the Property at the time of foreclosure or other proceeding, the Municipality or DHCD may, at its own expense, obtain an appraisal of the fair market value of the Property satisfactory to such holder. The Maximum Resale Price shall be determined as set forth above in this Deed Rider. If the holder disagrees with such appraised value, the holder may obtain a second appraisal, at the holder's expense and the Maximum Resale Price shall be equal to the average of the two appraisal amounts multiplied by the Discount Rate. To the extent the Grantee possesses any interest in any



amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Grantee hereby assigns its interest in such amount to said holder for payment to the Municipality.

5. Covenants to Run With the Property: (a) The Grantor and the Grantee, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grant and assign to the Municipality, the Municipality's agents, successors, designees and assigns and to the Director, the Director's agents, successors, designees and assigns the right of first refusal to purchase the Property as set forth herein, and the right to enforce the rights and restrictions, covenants and agreements set forth in this Deed Rider. The Grantor and the Grantee hereby grant to the Municipality and to the Director the right to enter upon the Property for the purpose of enforcing any and all of the restrictions, covenants and agreements herein contained, and to enforce the Municipality's and the Director's rights of first refusal to purchase the Property and the rights of the Municipality and the Director to designate a purchaser of the Property as set forth herein, and of taking all actions with respect to the Property which the Municipality or the Director may determine to be necessary or appropriate, with or without court order, to prevent, remedy or abate any violation of the restrictions, covenants and agreements and to enforce the Municipality's and the Director's rights of first refusal to purchase the Property and the rights of the Municipality and the Director to designate a purchaser of the Property set forth herein. The rights hereby granted to the Municipality and the Director shall be in addition to and not in limitation of any other rights and remedies available to the Grantor or the Municipality or the Director for enforcement of the restrictions, rights, covenants and agreements set forth in this Deed Rider. It is intended and agreed that all of the agreements, covenants, rights and restrictions set forth above shall be deemed to be covenants running with the Property and shall be binding upon and enforceable against the Grantee, the Grantee's successors and assigns and any party holding title to the Property, for the benefit of and enforceable by the Municipality, the Municipality's agents, successors, designees and assigns and the Director, the Director's agents, successors, designees and assigns for a period which is the shortest of (i) fifty years from the creation of the restriction, or (ii) upon the recording of a Compliance Certificate or (iii) upon the recording of an Eligible Purchaser Certificate and a new Deed Rider executed by the eligible purchaser referenced in the Eligible Purchaser Certificate, which new Deed Rider the Eligible Purchaser Certificate certifies is in form and substance satisfactory to DHCD and the Municipality or (iv) upon the conveyance of the Property to the Municipality and the recording of a Municipal Purchaser Certificate as set forth herein or (v) upon the conveyance of the Property to the Director in accordance with the terms hereof.

(b) This Deed Rider and all of the agreements, restrictions, rights and covenants contained herein shall be deemed to be an affordable housing restriction as that term is defined in M.G.L. c. 184, § 31 and as that term is used in M.G.L. c. 184, §§ 26, 31, 32, and 33.

(c) The Grantee intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Deed Rider and the covenants, agreements, rights and restrictions contained herein shall be and are covenants running with the land, encumbering the Property for the term of this Deed Rider, and are binding upon the Grantee's successors in title, (ii) are not merely personal

covenants of the Grantee, and (iii) shall bind the Grantee, its successors and assigns and enure to the benefit of the Municipality and the Director and their successors and assigns for the term of the Deed Rider. Grantee hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Deed Rider to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

(d) Without limitation on any other rights or remedies of the Grantor, the Municipality, and the Director, their agents, successors, designees and assigns, any sale or other transfer or conveyance of the Property in violation of the provisions of this Deed Rider, shall, to the maximum extent permitted by law, be voidable by the Municipality, the Municipality's agents, successors, designees and assigns or by the Director, the Director's agents, successors, designees or assigns by suit in equity to enforce such rights, restrictions, covenants, and agreements.

6. Notice: Any notices, demands or requests that may be given under this Deed Rider shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or such other addresses as may be specified by any party by such notice.

Municipality:

DHCD:

Department of Housing and  
Community Development  
Att'n: LIP Director

100 Cambridge Street, 3rd  
Floor Boston, MA 02114

Grantor:

Grantee:

Any such notice, demand or request shall be deemed to have been given on the day it is hand delivered or mailed.

7. Further Assurances: The Grantee agrees from time to time, as may be reasonably required by the Municipality or the Director, to furnish the Municipality and the Director with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and all other information pertaining to the Property or the Grantee's eligibility for and conformance with the requirements of the LIP Program.

8. Waiver: Nothing contained herein shall limit the rights of the Director to release or waive, from time to time, in whole or in part, any of the rights, restrictions, covenants or agreements contained herein with respect to the Property. Any such release or waiver must be made in writing and must be executed by the Director or his/her designee.

9. Severability: If any provisions hereof or the application thereof to any person or circumstance shall come, to any extent, to be invalid or unenforceable, the remainder hereof, or the application of such provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and enforced to the fullest extent permitted by law.

Executed as a sealed instrument this day of , 200 .

Grantor:

By

Signature

Name

Its

Grantee:

By

Signature

Name

Signature

Name

COMMONWEALTH OF MASSACHUSETTS

County of , ss , 200 \_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document [Grantor], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public

Print Name:  
My commission expires:  
COMMONWEALTH OF  
MASSACHUSETTS

County of \_\_\_\_\_, ss. \_\_\_\_\_, 200\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document [Grantee], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public  
Print Name:  
My commission expires: